

ORDINANCE NO. 5 2 4 6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING CHAPTER 10.02 ENTITLED "COMMUTE TRIP REDUCTION (CTR) PLAN" TO INCORPORATE CHANGES MADE TO THE STATE CTR LAW PER RCW 20.94.521-551 AND THE CTR TASK FORCE GUIDELINES, AMENDING CHAPTER 1.25 ENTITLED CIVIL PENALTIES FOR VIOLATIONS" TO PROVIDE CIVIL PENALTIES FOR VIOLATION OF AUBURN CITY CODE CHAPTER 10.02, AND AMENDING CHAPTER 10.36 SECTION 090 ENTITLED "TWO-HOUR PARKING ZONES," AND SECTION 500 ENTITLED "PASSENGER LOADING ZONES" TO CREATE A LOADING ZONE ON A PORTION OF AUBURN AVENUE TO FACILITATE ACCESS TO THE WHEELCHAIR RAMP FOR AUBURN REGIONAL MEDICAL CENTER.

WHEREAS, the City desires to update City Code Chapter 10.02 to incorporate changes made to the State CTR Law per RCW 20.94.521-551 and the CTR Task Force Guidelines; and

WHEREAS, the City desires to set forth civil penalties for violation of Auburn City Code Chapter 10.02; and

WHEREAS, the City desires to create a loading zone on a portion of Auburn Avenue that is currently a two-hour parking zone to facilitate access to the wheelchair ramp for the Auburn Regional Medical Center;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. PURPOSE: The purpose of this ordinance is to amend Auburn City Code as follows:

- a. Chapter 10.02, "Commute Trip Reduction (CTR) Plan" as set forth in Exhibit "A" attached hereto and incorporated herein by this reference to incorporate recent changes to the State CTR Law per RCW 70.94.521-551 and the CTR Task Force Guidelines; and
- b. Chapter 1.25, "Civil Penalties for Violations" as set forth in Exhibit "B" attached hereto and incorporated herein by this reference to set for penalties for violation of Auburn City Code 10.02; and
- c. Chapter 10.36.390, "Two-hour parking zones," as set forth in Exhibit "C" attached hereto and incorporated herein by this reference to eliminate a portion of a two-hour parking zone on Auburn Avenue adjacent to the Auburn Regional Medical Center; and
- d. Chapter 10.36.500, "Passenger loading zones," as set forth in Exhibit "D" attached hereto and incorporated herein by this reference to create a passenger loading zone on a portion of Auburn Avenue adjacent to the Auburn Regional Medical Center.

Section 2. CONSTITUTIONALITY OR INVALIDITY: If any section, subsection, clause, phrase, or sentence, of this Ordinance, is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality of the remaining portions of this ordinance, as it is being hereby expressly declared that this ordinance and each section, subsection, clause, phrase, or sentence, hereof would have been prepared, proposed, adopted, and approved and ratified irrespective of the fact that any one or more section, subsection, clause, phrase, or sentence, be declared invalid or unconstitutional.

Section 3. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 4. This ordinance shall take effect and be in force five (5) days from and after its passage, approval, and publication, as provided by law.

INTRODUCED: JUNE 21, 1999

PASSED: JUNE 21, 1999

APPROVED: JUNE 21, 1999

Charles A. Booth

CHARLES A. BOOTH  
MAYOR

ATTEST:

Danielle E. Daskam

Danielle E. Daskam,  
City Clerk

APPROVED AS TO FORM:

Michael J. Reynolds

Michael J. Reynolds,  
City Attorney

PUBLISHED: 6-25-99

## Exhibit "A"

## Chapter 10.02

## COMMUTE TRIP REDUCTION (CTR) PLAN

## Sections:

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10.02.110	Credit for transportation demand management efforts.
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## 10.02.005 Findings.

The City of Auburn recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption, and traffic congestion and the contribution individual actions can make toward addressing these issues.

## 10.02.010 Definitions.

For the purpose of this chapter, the following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Affected employee" means a full-time employee who is scheduled to begin his or her regular work day at a single worksite between 6:00 a.m. and 9:00 a.m., inclusive, on two or more weekdays per week for at least 12 continuous months. Shareholders, principles and associates in a corporation, general or limited partners in a partnership and participants in a joint venture are to be considered employees.

B. "Affected employer" means a public or private employer that, for 12 continuous months, employs 100 or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m., inclusive, on two or more weekdays. The individual employees may vary during the year. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition.

C. "Alternative mode" means any type of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work weeks, if they result in reducing commute trips.

D. "Alternative work schedules" means programs such as compressed work weeks that eliminate work trips for affected employees.

E. "Base year" means the period from January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle (SOV) trips shall be based.

F. "Carpool" means a motor vehicle occupied by two (2) to six (6) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle commute trip.

FG. "City" means the city of Auburn.

GH. "Commute trips" mean trips made from a worker's home to a worksite with a regularly scheduled arrival time of 6:00 a.m. to 9:00 a.m., inclusive, on weekdays.

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- HI. "CTR plan" means the city's plan to regulate and administer the CTR programs of affected employers within its jurisdiction.
- IJ. "CTR program" means an employer's strategies to reduce affected employees' SOV use and VMT per employee.
- JK. "CTR zone" means an area, such as a census tract or combination of census tracts, within the city characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of SOV commuting.
- KL. "Compressed work week" means an alternative work schedule in accordance with employer policy that regularly allows a full-time employee to eliminate at least one work day every two weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and biweekly arrangements, the most typical being four 10-hour days or 80 hours in nine days, but may also include other arrangements. Compressed work weeks are understood to be an ongoing arrangement.
- LM. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.
- MN. "Employee" means anyone who receives financial or other remuneration in exchange for work provided to an employer, including owners or partners of the employer.
- NO. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit, or private, that employs workers.
- P. "Exemption" means a waiver from any or all CTR program requirements granted to an employer by the City based on unique conditions that apply to the employer or employment site.
- QQ. "Flex-time" is an employer policy allowing individual employees some flexibility in choosing the time, but not the number, of their working hours to facilitate the use of alternative modes.
- PR. "Full-time employee" means a person other than an independent contractor scheduled to be employed on a continuous basis for 52 weeks per year for an average of at least 35 hours per week.
- S. "Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter and is working collaboratively with the City to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed upon length of time.
- QT. "Implementation" means active pursuit by an employer of the CTR goals stated in RCW 70.94.521 through 70.94.551 and in this chapter as evidenced by appointment of a transportation coordinator, distribution of information to employees regarding alternatives to SOV commuting, and commencement of other measures according to their CTR program and schedule.
- RU. "Mode" means the type of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool/vanpool), transit, ferry, bicycle, and walking, compressed work schedule, and telecommuting.
- V. "Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted three days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.
- SW. "Peak period" means the hours from 6:00 a.m. to 9:00 a.m., inclusive, Monday through Friday, except legal holidays.
- TX. "Peak period trip" means any employee trip that delivers the employee to begin his or her regular workday between 6:00 a.m. and 9:00 a.m., inclusive, Monday through Friday, except legal holidays.
- UY. "Proportion of single-occupant vehicle trips" or "SOV rate" means the number of commute trips over a set period made by affected employees in SOVs divided by the number of potential trips taken by affected employees working during that period.

VZ. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one employee for commute purposes, including a motorcycle.

WAA. "Single-occupant vehicle (SOV) trips" means commute trips made by affected employees in SOVs.

XBB. "Single worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way occupied by one or more affected employers.

YCC. "Telecommuting" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

DD. "Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus, or vanpool. A transit trip counts as zero (0) vehicle trips.

EE. "Transportation Demand Management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

ZFF. "Transportation management association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits, or may have a sphere of influence that extends beyond city limits.

GG. "Vanpool" means a vehicle occupied by from seven (7) to fifteen (15) people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero (0) vehicle trips.

AAHH. "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths in miles made by affected employees over a set period divided by the number of affected employees during that period.

BB. "Waiver" means an exemption from CTR program requirements granted to an employer by the city based on unique conditions that apply to the employer or employment site.

CCII. "Week" means a seven day calendar period, starting on Monday and continuing through Sunday.

DDJJ. "Weekday" means any day of the week except Saturday or Sunday. (Ord. 4602 § 2, 1993.)

KK. "Writing," "Written," or "In Writing" means original signed and dated documents.

Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

#### 10.02.020 Commute trip reduction goals.

The commute trip reduction goals for employers affected by this chapter are to achieve the following reductions in vehicle miles traveled, SOV trips and VMT per employee as well as in the proportion of single-occupant vehicles from the 1992 base year value of Auburn's CTR zone:

- A. 15 percent by January 1, 1995 reduction after two years;
- B. 25-20 percent by January 1, 1997 reduction after four years;
- C. 35-25 percent by January 1, 1999, reduction after six years; (Ord. 4602 § 2, 1993.)
- D. 35 percent reduction after twelve years.

#### 10.02.030 Designation of CTR zone and base year values.

Employers in the city are included within the South King County CTR zone which is designated by the boundaries shown on the map in Attachment "B" to this chapter and incorporated herein. The base year value of this zone for proportion of SOV trips shall be 85 percent. The base year value for vehicle miles traveled (VMT) per employee shall be set at 9.3 miles. Commute trip reduction goals for major employers shall be calculated from these values, or the work site base year value. Therefore, affected employers in the city shall establish programs designed to result in SOV rates of not more than 72 percent in 1995, or two years after program implementation

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begins; 64-68 percent in 1997, or four years after program implementation begins; and 55-64 percent in 1999, or six years after program implementation begins; and 55 percent in 2005, or twelve years after program implementation begins. -and The VMT per employee of not more than goals should be 7.9 miles in 1995, or two years after program implementation begins; 7.04 miles in 1997, or four years after program implementation begins; and 67.0 miles in 1999; or six years after program implementation begins; and 6.0 miles in 2005, or twelve years after program implementation begins. (Ord. 4602 § 2, 1993.)

#### 10.02.040 City of Auburn CTR plan.

The 1992 city of Auburn CTR plan is set forth in Attachment "A" to this chapter and incorporated herein. The city's CTR plan shall be reviewed annually by the city council and revised if necessary to be consistent with applicable plans developed under RCW 36.70A.070. (Ord. 4602 § 2, 1993.)

#### 10.02.050 Responsible agency.

The city public works department shall be responsible for implementing this chapter, the CTR plan, and the city's CTR program for its own employees. (Ord. 4602 § 2, 1993.)

#### 10.02.060 Applicability.

The provisions of this chapter shall apply to any affected employer at any single worksite within the corporate limits of the city. Employees will only be counted at their primary worksite. The following classifications of employees are excluded from the counts of employees: (1) seasonal agricultural employees, including seasonal employees of processors of agricultural products and (2) employees of construction worksites when the expected duration of the construction is less than two years.

##### A. Notification of Applicability.

1. Known affected employers located within the city shall be notified in writing by certified mail that they are subject to the provisions of this chapter.
2. Affected employers that, for whatever reason, do not receive written notice, must identify themselves to the city upon determining they are defined as "affected employers". Once they identify themselves, such employers will be granted ~~150~~ 180 days within which to develop and submit a CTR program.
3. Any existing employer of 75 or more persons who obtains a business license or business registration from the city will be required to complete an employer assessment form to determine whether or not an employer will be deemed affected or non-affected in accordance with the provisions of this chapter.

B. New Affected Employers. Employers that meet the definition of "affected employer" in this chapter must identify themselves to the city within 180 days of either moving into the boundaries of the city or increasing employment at a worksite to 100 or more affected employees. Once they identify themselves, such employers shall be granted ~~150~~ 180 days to develop and submit a CTR program. Employers that do not identify themselves within 180 days are in violation of this chapter. New affected employers shall have two years to meet the first CTR goal of a 15 percent reduction from the base year values identified in ACC 10.02.030; four years to meet the second CTR goal of a ~~25~~ 20 percent reduction; and six years to meet the third CTR goal of a ~~35~~ 25 percent reduction; and twelve years to meet the fourth goal of a 35 percent reduction from the time they begin their CTR program.

C. Change in Status as an Affected Employer. Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an affected employer can document that it faces an extraordinary circumstance that will change its status as an affected employer, it can apply for an waiver-exemption pursuant to ACC

10.02.100(A).

2. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and ~~has expects not to~~ employed 100 or more affected employees for the past next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to provide documentation to the city that it is no longer an affected employer.
3. If the same employer returns to the level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.
34. If the same employer returns to the level of 100 or more affected employees 12 or more months after its change in status to an "unaffected" employer, that employer shall be treated as a new affected employer and will be subject to the same program requirements as other new affected employers. (Ord. 4602 § 2, 1993.)

#### 10.02.070 Requirements for employers.

An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips. The CTR program must include the mandatory elements described herein, including submittal of a CTR program description and annual progress report on employee commuting and progress toward meeting the SOV goals. Transportation management associations may submit CTR program descriptions and annual reports on behalf of employers; however, each employer shall remain accountable for the success of its own program.

A. Description of Employer's CTR Program. Each affected employer is required to submit a description of its CTR program to the city on the official form available from the public works department. The CTR program description presents the strategies to be undertaken by an employer to achieve the commute trip reduction goals for each goal year. Employers are encouraged to consider innovative strategies and combine program elements in a manner that will best suit their location, site characteristics, business type, and employees' commuting needs. Employers are further encouraged to cooperate with each other and to form or use transportation management organizations in developing and implementing CTR program. At a minimum, the employer's description must include:

1. General description of each employment site location within the city limits, including transportation characteristics, surrounding services, and unique conditions experienced by the employer or its employees;
2. Number of employees affected by the CTR program;
3. Documentation of compliance with the mandatory CTR program elements as described in subsection B of this section;
4. Description of the additional elements included in the CTR program; and
5. Schedule of implementation, assignment of responsibilities, and commitment to provide appropriate resources to carry out the CTR program.

B. Mandatory Program Elements. Each employer's CTR program shall include the following mandatory elements:

1. Transportation Coordinator. The employer shall designate a transportation coordinator to administer the CTR program. The coordinator's and/or designee's name, location, and telephone number must be displayed prominently at each affected worksite. The coordinator shall oversee all elements of the employer's CTR program and act as liaison between the employer and the city. The objective is to have an effective transportation coordinator presence at each worksite. An affected employer with multiple sites may have one transportation coordinator for all sites.
2. Information Distribution. Information about alternatives to SOV commuting shall be provided to employees at least once a year. This shall consist of, at a minimum, a summary of the employer's CTR program, including ETC name and phone number. Employers must also provide a summary of their CTR program to all new employees at the time of hire. Each employer's CTR

program description and annual report must describe what information is to be distributed by the employer and the method of distribution.

3. Annual Progress Report. The CTR program must include an annual review of employee commuting and of progress toward meeting the SOV reduction goals. Affected employers shall file a progress report annually with the city in accordance with section subsection 090 of this chapter. The employer should contact the city's public works department for the format of the report. Survey information or alternative information approved by the public works director shall be required in the 1995, 1997 and 1999 reports.

4. Additional Program Elements. In addition to the specific CTR program elements described above, the employer's CTR program shall include a set of measures designed to meet CTR goals. Measures may include, but are not limited to, one or more of the following: (Ord. 4602 § 2, 1993.)

- a. Provision of preferential parking or reduced parking charges, or both, for high-occupancy vehicles;
- b. Instituting or increasing parking charges for SOVs;
- c. Provision of commuter ride matching services to facilitate employee ride-sharing for commute trips;
- d. Provision of subsidies for transit fares;
- e. Provision of vans for vanpools;
- f. Provision of subsidies for carpools or vanpools;
- g. Permitting the use of the employer's vehicles for carpooling or vanpooling;
- h. Permitting flexible work schedules to facilitate employees' use of transit, carpools, or vanpools;
- i. Cooperation with transportation providers to provide additional regular or express service to the worksite;
- j. Construction of special loading and unloading facilities for transit, carpool, and vanpool users;
- k. Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- l. Provision of a program of parking incentives such as a rebate for employees who do not use the parking facilities;
- m. Establishment of a program to permit employees to work part- or full-time at home or at an alternative worksite closer to their homes;
- n. Establishment of a program of alternative work schedules, such as a compressed work week which reduces commuting; and
- o. Implementation of other measures designed to facilitate the use of high-occupancy vehicles, such as on-site day care facilities and emergency taxi services.

10.02.080 Recordkeeping.  
Affected employers shall maintain all records as required by the public works director. (Ord. 4602 § 2, 1993.)

10.02.090 Schedule and process for CTR reports, program review and implementation Annual reports.

A. CTR Program. The employer shall develop a CTR program and shall submit to the city a description of such CTR program for review not more than six months after the effective date of this chapter or within six months after an employer becomes subject to the provisions of this chapter.

An affected employer's CTR program must include an annual review of employee commuting, progress, and good faith efforts toward meeting the SOV reduction goals. The employer should contact the city's public works department for the format of the report. Survey information or

alternative information approved by the public works director must be provided in the reports submitted in the second, fourth, sixth, eighth, tenth, and twelfth years after program implementation begins. Note: For worksites which have been participating in the CTR program since the beginning, this requirement applies to the 1995, 1997, 1999, 2001, 2003, and 2005 annual reports.

**BA. CTR Annual Reporting Date.** Employers will be required to submit an annual CTR report to the city beginning with the first annual reporting date assigned during the initial CTR program submittal. The annual reporting date shall be no less than 12 months from the day the initial CTR program description is submitted. Subsequent years' reports will be due on the same date each year.

**CB. Content of Annual Report.** The annual progress report shall describe each of the CTR measures that were in effect for the previous year, the results of any commuter surveys undertaken during the year, and the number of employees participating in CTR programs. Survey information or alternative information approved by the public works director must be provided in the 1995, 1997, and 1999 reports.

1. Annual reports will be deemed acceptable if the annual report form is complete and contains information about implementation of the prior year's CTR program elements and proposed new program elements and implementation schedule. Annual reports must also contain a review of employee commuting and report of progress toward meeting SOV goals.

#### D.10.02.095 Program Review and Modifications.

The city shall provide the employer with written notification indicating whether a CTR program was approved or deemed unacceptable.

1. Initial CTR program descriptions will be deemed acceptable if all required information on the program description form is provided.

2. Annual reports will be deemed acceptable if the annual report form is complete and contains information about implementation of the prior year's CTR program elements and proposed new program elements and implementation schedule. Annual reports must also contain a review of employee commuting and report of progress toward meeting SOV goals.

3. Beginning in 1995, the CTR programs described in the annual reports will be deemed acceptable if either the SOV trip or the VMT per employee goals have been met. If neither goal has been met, the employer must propose modifications designed to make progress toward the applicable goal in the coming year. If the revised program is not approved, the city shall propose modifications to the program and direct the employer to revise its program within 30 days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

2. If an employer makes a good faith effort, as defined in RCW 70.94.543(2) and this chapter, and meets either or both the applicable SOV or VMT goal, the employer has satisfied the objectives of the CTR plan and will not be required to modify its CTR program.

3. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has not met or not likely to meet the applicable SOV or VMT goal, the City shall work collaboratively with the employer to make modifications to its CTR program. After agreeing on modifications, the employer shall submit a revised CTR program description to the City for approval within 30 days of reaching an agreement.

4. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, and fails to meet either the applicable SOV or VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within 30 days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within 30 days of

receiving written notice to revise its program. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, the City will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten working days of the conference.

E5. Implementation of Employer's CTR Program. The employer shall implement the approved CTR program not more than 180 days after the CTR program was first submitted to the city unless extensions allow for late implementation. Implementation of CTR programs that have been modified based on non-attainment of CTR goals must occur within 30 days following city approval of such modifications. (Ord. 4602 § 2, 1993.)

10.02.100 Requests for waivers Requests for exemptions or modifications of CTR requirements, of CTR requirements.

A. Employer Exemptions/Waivers. An affected employer may submit a request to the city to grant a waiver an exemption from all CTR program requirements or penalties for a particular worksite. A waiver may be granted if and only if the affected The employer must demonstrates that it faces would experience undue hardship in complying with the requirements of this chapter as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces an extraordinary circumstances, such as bankruptcy, as a result of the characteristics of its business, its work force, or its location(s) and is unable to implement measures that could reduce the proportion of SOV trips and VMT per employee. Requests for waivers applying to the initial CTR program submittal are due within three months after the employer has been notified that it is subject to chapter and thereafter requests can be made at any time. Requests must be made in writing by certified mail or delivery, return receipt. Exemptions may be granted by the city at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. The city shall review annually all employers receiving waivers exemptions and shall determine whether the waiver exemption will continue to be in effect during the following CTR program year.

B. Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The city will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The city shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

BC. Goal Modification. Any affected employer may request that the city a modification its of CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description and annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program. The city will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Task Force Guidelines. An employer may not request a modification of the applicable goals until one year after the city approves its initial program description or annual report. Grounds for granting modification are limited to the following:

1. An affected employer can demonstrate it requires:

- a. Significant numbers of its employees to use the vehicles they drive to work during the work day for work purposes, that no reasonable alternative commute mode exists for these employees, and that the vehicles cannot reasonably be used for carpools or vanpools; and/or
- b. Some employees to work variable shifts during the year, so that these employees sometimes begin their shifts within the 6:00 a.m. to 9:00 a.m. time period and other times begin their shifts outside that time period; provided that, if there are a significant number of employees who work an identical shift rotation, such employees shall be part of the employer's CTR program measurement, as they form enough of a consistent pool to maintain ridesharing arrangements. If the employer provides documentation indicating how many employees meet either of these conditions, the applicable goals will not be changed, but the employees who fall into these categories will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward CTR program goals.
2. An affected employer demonstrates that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affecting alternative commute options are similar to those for employers in the adjoining CTR zone. Under this condition, the employer's worksite may be made subject to the same goals for VMT per employee and proportion of SOV trips as employers in the adjoining CTR zone.
3. Employers may only request a modification based on conditions 1 and 2 above within three months after being notified that they are subject to this chapter.
4. Unanticipated conditions, such as unavailability of alternative commute modes due to factors related to the worksite, an employer's work force, or characteristics of the business that are beyond the employer's control. A request for goal modification based on this condition must be made by the employer's assigned reporting dates in 1995 and 1997.
5. Relocation of a worksite to another CTR zone. Requests for goal modification based on this condition may be made at any time. All requests for modification of CTR program goals must be made in writing by certified mail or delivery, return receipt.
- GD. Modification of CTR Program Elements. If an employer wants to change a particular aspect of its CTR program during the period of time between annual reporting dates, the employer must contact the city. Any affected employer may submit a request to the city for modification of CTR program elements, other than the mandatory elements specified in this chapter, including record keeping requirements. Such request may be granted if one of the following conditions exist:
1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or
  2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship. This may include evidence from employee surveys administered at the worksite: first, in the base year, showing that the employer's own base year values of VMT per employee and SOV rates were higher than the CTR zone average; and/or secondly, in the goal measurement year(s), showing that the employer has achieved reductions from its own base values that are comparable to the reduction goals established for the employer's CTR zone.
- DE. Extensions. An employer may request additional time to submit a CTR program or CTR annual progress report, or to implement or modify a program for reasonable causes.
1. Such requests shall be made in writing to the city's public works director 30 days before the due date for which the extension is being requested. In addition, all requests for extensions must be made prior to the due date anytime a program submission is going to be more than one week late.
  2. Extensions shall not exceed 90 days. Employers shall be limited to a total of 90 allowed extension days per year.
  3. Extensions shall not exempt an employer from any responsibility in meeting CTR program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other CTR program elements.

4. An employer's annual reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of the public works director. (Ord. 4602 § 2, 1993.)

#### 10.02.110 Credit for transportation demand management efforts.

A. As public recognition for their efforts, employers with VMT per employee and proportion of SOV trips lower than the zone average will receive a Commute Trip Reduction Certificate of Leadership from the city.

AB. Credit for Programs Implemented Prior to the Base Year. Employers with successful TDM programs implemented prior to the 1992 base year may apply to the city for program credit.

1. Employers whose VMT per employee and proportion of SOV trips are already equal to or less than the goals for one or more future goal years, and who commit in writing to continue their current level of effort, shall be exempt from the following year's annual report.

2. Employers applying for the program credit in their initial 1993 program description shall be considered to have met the 1995 CTR goals if their VMT per employee and proportion of SOV trips are equivalent to a 12 percent or greater reduction from the base year zone values. This three percentage point credit applies only to the 1995 CTR goals.

3. For the initial year, employer requests for program credit are due within three months after notification that the employer is subject to this chapter. Requests for program credit must be received by the employer's assigned reporting dates in 1995 and 1997 for succeeding years.

4. Application for a program credit shall include an initial program description, written commitment on an official report form to maintain program elements, and results from a survey of employees, or equivalent information that establishes the applicant's VMT per employee and proportion of SOV trips.

BC. Credit for Alternative Work Schedules, Telecommuting, Bicycling and Walking, by Affected Employees.

1. The city will count commute trips eliminated through alternative work schedules, telecommuting options, bicycling and walking as 1.2 vehicle trips eliminated. This assumption applies to both the proportion of SOV trips and VMT per employee.

2. This type of credit is applied when calculating the SOV and VMT rates of affected employers. (Ord. 4602 § 2, 1993.)

#### 10.02.120 Appeals.

A. Employers may file a written appeal of final administrative decisions regarding the following actions:

1. Rejection of an employer's proposed CTR program.

2. Denial of an employer's request for a waiver or modification of any of the requirements under this chapter or a modification of the employer's CTR program.

3. Denial of credits requested under ACC 10.02.110.

B. All appeals must be filed with the city's public works department within 20 days after the final administrative decision is issued. Appeals shall be heard by the city's hearing examiner pursuant to Chapter 18.66 ACC. Determinations on appeals shall be based on whether the decision being appealed was consistent with applicable state law and the Guidelines of the State Task Force. The hearing examiner's determination shall be final unless appealed to the city council pursuant to Auburn City Code 18.66.160. (Ord. 4602 § 2, 1993.)

#### 10.02.130 Enforcement.

A. Compliance. For purposes of this chapter, "compliance" shall mean submitting required reports and documentation at prescribed times and fully implementing in good faith all provisions in an accepted approved CTR program.

Exhibit "A"

Ordinance No. 5246

BB. Violations. Any violation of this chapter shall be enforced pursuant to the provisions of Chapter 1.25 ACC. The following actions shall constitute a violation of this chapter:

1. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and SOV goals as specified in this chapter. Failure to implement a CTR program includes but is not limited to:

a. Failure of any affected employer to submit a complete CTR program within the deadlines specified in ACC 10.02.090;

b. Failure to submit required documentation for annual reports;

c. Submission of fraudulent data.

2. Failure to modify a CTR program found to be unacceptable by the city under ACC 10.02.090(D).

3. Failure to make a good faith effort, as defined in RCW 70.94.534(4) and this chapter.

C. Penalties.

1. No affected employer with an approved CTR program may be held liable for failure to reach the applicable SOV or VMT goals.

2. Each day of failure by an employer to (a) implement a CTR program, or (b) modify an unacceptable CTR program shall constitute a separate violation, subject to penalties as described in ACC 1.25.

D. Exemption from Civil Liability. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they: (a) Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and (b) Advise the union of the existence of the statute and the mandates of the CTR program approved by the city and advise the union that the proposal being made is necessary for compliance with RCW 70.94.531. (Ord. 4602 § 2, 1993.)

## EXHIBIT B

## Chapter 1.25

## CIVIL PENALTIES FOR VIOLATIONS

## Sections:

- 1.25.010 Purpose.
- 1.25.020 Definitions.
- 1.25.030 Notice to correct violation.
- 1.25.040 Notice of failure to correct violation.
- 1.25.050 Notice of hearing.
- 1.25.060 Stop work order.
- 1.25.070 Notice of violation of stop work order.
- 1.25.080 Enforcement authority.
- 1.25.090 Interpretation.
- 1.25.100 Hearing examiner.
- 1.25.110 Collection of monetary penalty.
- 1.25.120 Collection enforcement and/or abatement.
- 1.25.130 Additional enforcement procedure.
- 1.25.140 Constitutionality or invalidity.
- 1.25.160 Severability.

## 1.25.010 Purpose.

It is the purpose of this chapter to provide civil penalties for non-fire code violations of Auburn City Code Titles 8, 10, 12, 13, 15, 16, 17 and 18, all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles which do not involve imminent danger to the public health, safety and welfare of persons or property. Criminal penalties provided in this code for non-fire violation of Titles 8, 10, 12, 13, 15, 16, 17 and 18, and all standards, regulations and procedures adopted pursuant to those titles and the terms and conditions of any permit or approval issued pursuant to those titles whether contained in Chapter 1.24 ACC or in the individual titles are superseded to the extent provided herein. It is the intent of this chapter to permit a timely and efficient means of enforcement, to establish definitions, monetary penalties for violations and a hearing process before the hearing examiner. (Ord. 4460 § 1, 1991.)

## 1.25.020 Definitions.

Except where specifically defined in this section, all words used in this chapter shall carry their customary meanings. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in making a decision.

A. "Act" means doing or performing something.

B. "Code enforcement official" means the building and land use codes enforcement manager or his/her designee empowered to enforce a violation of Titles 8, 10, 12, 13, 15, 16, 17 and 18, and all standards, regulations and procedures adopted pursuant to those titles and the terms and conditions of any permit or approval issued pursuant to those titles of this code.

Exhibit B

Ordinance No. 5246

- C. "Emergency" means a situation or civil violation which in the opinion of the code enforcement official requires immediate action to prevent or eliminate an imminent threat to the public health, safety or welfare of persons or property.
- D. "Hearing examiner" means the office of the hearing examiner created pursuant to Title 18 of this code and provided for herein as the officer presiding over violation and stop work hearings.
- E. "Omission" means a failure to act.
- F. "Person" includes any natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- G. "Stop Work Order." Whenever any work is being done which constitutes a "violation" under subsection H of this section, the code enforcement official may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the code enforcement official to proceed with the work.
- H. "Violation" means an act or omission contrary to requirements contained in Titles 8, 12, 13, 15, 16, 17 and/or 18, and/or all standards, regulations and procedures adopted pursuant to those titles and the terms and/or conditions of any permit or approval issued pursuant to those titles. (Ord. 4460 § 1, 1991.)

1.25.030 Notice to correct violation.

A. Authority to Issue.

1. Whenever the code enforcement official, or his/her designee, determines that a violation is occurring or has occurred, he/she may issue a notice to correct the violation in a form pursuant to subsection C of this section, to the property owner(s) and/or tenant(s) and/or to any person(s) causing or allowing or participating in the violation.
2. The code enforcement officer shall require the violation to be corrected within one to 15 working days from the issuance of the notice to correct. The length of time to correct shall be determined by the scope of violation and method needed to correct violation. All violations, in any event, shall be corrected expediently.

B. Receipt of Correction Notice.

1. Upon receipt of notice to correct violation, the violator shall either correct the violation or ask the code enforcement official for a reconsideration of the notice to correct within the time frame set out in subdivision 3 of this subsection B.
2. If the violator corrects the violation, the code enforcement official shall close the violation file and notify violator of compliance.
3. The property owner and/or tenant may request reconsideration of the notice to correct violation by the code enforcement official. This request must be made in writing no later than the date on which corrections are to be completed as specified in the notice. The code enforcement official shall respond to the request for reconsideration no later than seven calendar days from the date the request for reconsideration is received. The code enforcement official may amend the notice to correct for good cause to allow for a longer time to correct the violation, to amend the scope of violation, or to rescind the notice. A stay of the time

allowed for correction shall be in effect until the date a response to the reconsideration is sent.

4. If the violator corrects the violation pursuant to the reconsideration determination, the code enforcement official shall close the violation file and notify the violator of compliance.

C. Content. The notice to correct violation shall contain the following:

1. The name and address of the property owner and/or tenant and/or other person to whom the notice to correct violation is directed; and

2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

3. A description of the violation and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and

4. A statement of the action required to be taken to correct the violation as determined by the code enforcement official and a date or time by which correction is to be completed; and

5. A statement that the property owner and/or tenant may request a reconsideration of the notice to correct violation by the code enforcement official and the procedures required for such request; and

6. A statement that the consequences of failing to correct the violation will be monetary penalties; and

7. A statement that the person to whom the notice to correct violation is directed shall inform the code enforcement official of the correction so an inspector can be sent to the violation premises to confirm the correction.

D. Service of Notice. The code enforcement official shall cause the notice to correct violation to be served on the person(s) to whom it is directed, either personally or, if personal service cannot be made, by mailing a copy of the notice to correct violation by certified mail, postage prepaid, return receipt requested, to such person(s) at his/her last known address, and by posting a copy of the notice to correct violation conspicuously on the affected property or structure. Proof of service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service and the manner by which service was made. If the whereabouts of such person(s) is unknown and the same cannot be ascertained by the code enforcement official in the exercise of reasonable diligence and the code enforcement official shall make an affidavit to that effect, then the serving of such complaint or notice upon such person(s) may be made by publishing the same once each week, for three consecutive weeks, in the official newspaper of the city. The failure of the code enforcement official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him/her by this chapter.

E. Extension. Upon written request received prior to the correction date or time, the code enforcement official may extend the date set for correction for good cause. The code enforcement official may consider but is not limited to the

consideration of substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause. (Ord. 4460 § 1, 1991.)

1.25.040 Notice of failure to correct violation.

A. Authority to Issue.

1. Whenever the code enforcement official determines that a violation has not been corrected pursuant to ACC 1.25.030, he/she shall issue a notice of failure to correct violation in a form pursuant to subsection C of this section, to the property owner(s) and/or tenant(s) and/or to any person(s) causing or allowing or participating in the violation.

2. The code enforcement official shall require the violation to be corrected within one to 10 calendar days from the issuance of the notice of failure to correct.

B. Receipt of Notice of Failure to Correct Violation.

1. Upon receipt of notice of failure to correct violation, the violator shall correct the violation within one to 10 calendar days from the date the notice is issued as specified in the notice.

2. A \$50.00 per day penalty shall accrue for each violation from the date of issuance of the notice of failure to correct violation.

3. If the violator corrects the violation, the code enforcement official shall close the violation file and notify the violator of compliance.

4. If the violator fails to correct the violation, the code enforcement official shall schedule a violation hearing before the hearing examiner.

5. Notwithstanding the provisions of ACC 1.25.030, the code enforcement official may issue a notice of failure to correct violation without having issued a notice to correct violation when an emergency exists.

C. Content. The code enforcement official shall include the following in the notice of failure to correct violation:

1. The name and address of the property owner and/or tenant and/or other person(s) to whom the notice of failure to correct violation is directed; and

2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

3. A description of the violation and a reference to the Auburn City Code or related provision standards, regulations or procedures or permit which has been violated; and

4. A statement that a monetary penalty of \$50.00 per day for each violation as specified in subsection B2 of this section is assessed against the person(s) to whom the notice of failure to correct violation is directed for each and every day, or portion thereof during which the violation continues beyond the date or time established for correction in the notice of failure to correct violation; and

5. A statement of the action required to be taken to correct the violation; and

6. A statement that the violator shall pay the monetary penalty to the finance director; and

7. A statement that the consequences of failing to correct the violation will be monetary penalties and a hearing before the hearing examiner; and

8. A statement that the person to whom the notice of failure to correct violation is directed shall inform the code enforcement official of the correction so an inspector can be sent to the violation premises to confirm the correction; and  
 9. Any administrative contents the code enforcement official needs in order to implement the notice of failure to correct.

D. Service of Notice. The code enforcement official shall cause to be served the notice of failure to correct violation upon the person to whom it is directed in the same manner as provided in ACC 1.25.030(D).

E. Monetary Penalty. The amount of the monetary penalty per day or portion thereof shall be paid in U.S. currency or by money order or cashier's check. The city or its designee may seek a separate judgment for each 60-day period the violator remains in noncompliance.

F. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the code enforcement official. (Ord. 4460 § 1, 1991.)

#### 1.25.050 Notice of hearing.

##### A. Authority to Issue.

1. Whenever the code enforcement official determines that a violation has not been corrected pursuant to ACC 1.25.040, he/she shall issue a notice of hearing to the property owner(s) and/or tenant(s) and/or any person(s) causing or allowing or participating in the violation.

2. The notice shall indicate the violation has been scheduled to be heard by the hearing examiner. The notice shall be issued to the violator a minimum of 10 calendar days prior to the hearing.

3. A \$50.00 per day penalty shall continue to accrue for each violation from the date of issuance of the notice of failure to correct violation.

B. Content. The code enforcement official shall include the following in the notice of hearing:

1. The name and address of the property owner and/or tenant and/or other person(s) to whom the notice of hearing is directed; and

2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and

3. A description of the violation and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and

4. A statement that the monetary penalty of \$50.00 per day for each violation as specified in ACC 1.25.040(B)(2) and subsection A3 of this section is assessed against the person(s) to whom the notice of hearing is directed for each and every day, or portion thereof, from the date of issuance of the notice of failure to correct violation; and

5. A statement that the violator shall pay the monetary penalty to the finance director; and

6. A statement that the code enforcement official is scheduling the violation to be heard by the hearing examiner and indicating the date, time and place the violator is to appear in front of the hearing examiner; and
7. A statement of the procedural rules of the hearing; and
8. A statement of the consequences of failing to appear at the hearing; and
9. Any administrative contents the code enforcement official needs in order to implement the notice of hearing; and
10. A statement that the person to whom the notice of hearing is directed shall inform the code enforcement official of the correction of the violation so an inspector can be sent to the premises to confirm the correction prior to the hearing.

C. Service of Notice. The code enforcement official shall cause to be served the notice of hearing upon the person to whom it is directed in the same manner as provided in ACC 1.25.030(D).

D. Monetary Penalty. The amount of the monetary penalty per day or portion thereof shall be paid in U.S. currency or by money order or cashier's check. The city or its designee may seek a separate judgment for each 60-day period the violator remains in noncompliance.

E. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to stop and correct the violation as ordered by the code enforcement official and/or the hearing examiner.

F. Repeat Offenders. A person who has committed the same violation two times in a one-year period of time is entitled only to a notice of hearing for a subsequent same violation which occurs within the one-year period. (Ord. 4460 § 1, 1991.)

#### 1.25.060 Stop work order.

A. Authority to Issue. Whenever the code enforcement official, or his/her designee, determines that a violation as defined in ACC 1.25.020 (H) is occurring he/she may issue a stop work order.

B. Receipt of Stop Work Order. Upon receipt of a stop work order the person(s) to whom it is directed must immediately cease whatever activity has been ordered stopped by the code enforcement official.

C. Service of Stop Work Order. The code enforcement official shall cause the stop work order to be served upon the person(s) to whom it is directed in the same manner as provided in ACC 1.25.030(D).

D. Content. The code enforcement official shall include the following in the stop work order:

1. The name and address of the property owner and/or tenant and/or other person(s) to whom the stop work order is directed; and
2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation is occurring; and
3. A description of the violation and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and

4. A statement that a monetary penalty not to exceed \$50.00 per day for each violation which shall be separate and additional to any other penalties assessed as a result of any notice of failure to correct or notice of hearing pursuant to ACC 1.25.040 or 1.25.050 shall be imposed for each and every day, or portion thereof, during which any violation of the stop work order continues beyond the date and time the order is served; and
  5. A statement of the action required to be taken to correct the violation in order to obtain a release of the stop work order; and
  6. A statement the violator shall pay the monetary penalty to the finance director; and
  7. A statement the code enforcement official will schedule any violation of the stop work order to be heard by the hearing examiner; and
  8. A statement that in the event a violation of the stop work order occurs and is set to be heard by the hearing examiner, other notices received under the authority of this chapter which impact the violations described in the stop work order shall be heard by the hearing examiner at the time he/she hears the stop work order violations.
- E. Penalty for Violation. A monetary penalty not to exceed \$50.00 per day for each violation which shall be separate and additional to any other penalties assessed as a result of any notice of failure to correct or notice of hearing pursuant to ACC 1.25.040 or 1.25.050 shall be assessed for each violation of the order from the date and time the stop work order is served. Each and every day, or portion thereof, from the date and time the stop work order is served on which a violation occurs is a separate violation. (Ord. 4460 § 1, 1991.)

1.25.070 Notice of violation of stop work order.

- A. Authority to Issue. Whenever the code enforcement official, or his/her designee, determines that a violation of the stop work order is occurring or has occurred, he/she may issue a notice of violation of stop work order.
- B. Service of Notice of Violation of Stop Work Order. The code enforcement official shall cause the notice of violation of stop work order to be served upon the person to whom it is directed in the same manner as provided in ACC 1.25.030(D).
- C. Content. The code enforcement official shall include the following in the notice of violation of stop work order:
  1. The name and address of the property owner and/or tenant and/or other person to whom the notice of violation of stop work order is directed; and
  2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
  3. A description of the violation of the stop work order and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and
  4. A statement that a monetary penalty not to exceed \$50.00 per day shall be separate and additional to any other penalties assessed as a result of any notice of failure to correct or notice of failure to correct or notice of hearing pursuant to

ACC 1.25.040 or 1.25.050 and shall be assessed against the person(s) to whom the notice of violation of stop work order is directed for each and every day, or portion thereof, during which the violation continues beyond the date and time the stop work order was served; and

5. A statement the violator shall pay the monetary penalty to the finance director; and

6. A statement that the code enforcement official has scheduled the violation to be heard by the hearing examiner and indicating the date, time and place the violator is to appear in front of the hearing examiner; and

7. A statement of the procedural rules of the hearing; and

8. A statement indicating any other notices received under the authority of this chapter which impact the violations described in the stop work order shall be heard by the hearing examiner on the date and at the time set for this notice of violation of stop work order; and

9. A statement of the consequences of failing to appear at the hearing; and

10. Any administrative contents the code enforcement official needs in order to implement the notice of violation of stop work order.

D. Monetary Penalty. The amount of the monetary penalty per day or portion thereof for each violation shall be paid to the finance director in U.S. currency or by money order or cashier's check. The city or its designee may seek a separate judgment for each 15-day period the violator remains in noncompliance.

E. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to stop and correct the violation as ordered by the code enforcement official and/or the hearing examiner. (Ord. 4460 § 1, 1991.)

#### 1.25.080 Enforcement authority.

The code enforcement official shall have authority to enforce this chapter, including but not limited to non-fire code violations of Titles 8, 12, 13, 15, 16, 17 and 18, and all standards, regulations and procedures adopted pursuant to those titles and the terms and conditions of any permit or approval issued pursuant to those titles. The code enforcement official is authorized to issue violation notices and stop work orders, levy fines, and/or institute or cause to be instituted legal actions. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation as defined in ACC 1.25.020(H) and as provided in ACC 1.25.060 and 1.25.070, or order issued pursuant to this chapter, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct offense. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator. Enforcement actions shall include, but not be limited to, civil penalties, stop work orders and abatement or injunctive action. The code enforcement official may bring appropriate actions before the hearing examiner as provided in this chapter but is not precluded by this chapter from bringing actions at law or equity, including but not limited to actions for injunctive relief and/or abatement, to ensure the public health, safety and welfare. (Ord. 4460 § 1, 1991.)

**1.25.090 Interpretation.**

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 4460 § 1, 1991.)

**1.25.100 Hearing examiner.**

A. Authority. The hearing examiner as provided for in ACC 18.66.030 through 18.66.090 shall conduct the Chapter 1.25 ACC hearings.

**B. Duties of the Hearing Examiner.**

1. The hearing examiner shall be responsible for presiding over all hearings as provided for in this chapter.

2. The hearing examiner shall receive and examine available evidence, maintain a record of the hearing, and preside over the hearing as provided in this chapter. Written findings of fact, conclusions of law based upon those facts; and a determination of the issues presented shall be entered.

3. The hearing examiner shall determine:

a. Whether the city has proved by a preponderance of the evidence that:

i. The code enforcement official had authority to issue the notice(s); and

ii. The contents of the notice(s) complied with the appropriate section requirements; and

iii. The notice(s) was/were properly served; and

iv. The violation occurred within the city; and

v. A violation as defined in ACC 1.25.020(H) and/or as provided in ACC 1.25.060 and 1.25.070 has occurred;

b. The amount of the monetary penalty as provided in this chapter to be imposed. In determining such penalty, the hearing examiner shall consider the number of days the violation(s) persisted after the date set for compliance or the number of days which a violation of a stop work order occurred after the date and time set for work stoppage. If the monetary penalty is determined to be inequitable, the hearing examiner shall assess an equitable monetary penalty;

c. The assessment of the costs, fees and expenses in connection with the enforcement action which may be recovered as damages;

d. Whether dates for compliance are to be set and to set compliance dates where appropriate.

4. A written decision shall be rendered within 10 calendar days after the conclusion of the hearing unless the time is extended for a period not to exceed 30 calendar days after the conclusion of the hearing if the hearing examiner finds the amount and the nature of the evidence to be considered cannot be made available within the normal decision period. A copy of such decision shall be transmitted by regular mail, postage pre-paid, to the parties of record. The effective date of the decision shall be as stated therein.

C. Powers of the Hearing Examiner. In addition to any other powers granted to the hearing examiner in this section, the hearing examiner shall have the power to:

i. Examine witnesses and receive relevant evidence;

2. Rule on offers of proof;
3. Regulate the course of the hearing as provided herein, including the imposition of penalties for disruption of the orderly process or refusal to comply with lawful orders of the hearing examiner;
4. Hold conferences for the settlement or simplification of the issues by consent of all parties;
5. Make decisions which can be incorporated into findings of fact, conclusions of law and order of the hearing examiner and enter orders of default and consent orders.

**D. Hearing Before the Hearing Examiner.**

**1. Procedure.**

- a. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the hearing examiner. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the hearing examiner, but shall in no event be greater than the cost involved. The proceedings at the hearing may also be recorded by a court reporter if requested and arranged for by any party thereto. All such costs and expense for such court reporter shall be borne by the requesting party.
- b. Continuances. The hearing examiner may grant continuances for good cause shown.
- c. Oaths - Certification. In any proceedings under this section, the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.
- d. Reasonable Dispatch The hearing examiner shall proceed with reasonable dispatch to conclude any matter before him/her. Due regard shall be shown for the convenience and necessity of any parties or their representatives.
- e. Subpoenas. The hearing examiner may issue subpoenas upon the request of any party. The city attorney, assistant city attorney and city prosecutor are also authorized to issue subpoenas. When so required, the applicant for the subpoena shall show to the satisfaction of said individual the general relevance and reasonable scope of the evidence sought.

**2. Conduct of Hearing.**

- a. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- b. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.
- c. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- d. Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

- e. **Exclusion of Evidence.** Irrelevant and unduly repetitious evidence shall be excluded.
  - f. **Rights of Parties.** Each party shall have these rights among others:
    - i. To call and examine witnesses on any matter relevant to the issues of the hearing;
    - ii. To introduce documentary and physical evidence;
    - iii. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
    - iv. To impeach any witness regardless of which party first called him to testify;
    - v. To rebut the evidence against him;
    - vi. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.
  - g. **Official Notice.**
    - i. **What May Be Noticed.** In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or official records of departments and ordinances of the city.
    - ii. **Parties To Be Notified.** Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
    - iii. **Opportunity to Refute.** Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the official noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the hearing examiner.
    - iv. **Inspection of the Premises** The hearing examiner may inspect any building or premises involved in the violation. The hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the hearing examiner.
  - h. **Documentary Evidence.** Documentary evidence may be received in the form of copies.
  - i. **Limitation of Testimony.** The hearing examiner has the right to limit the time a witness may testify.
- E. Appeal.** Nothing in this section shall be construed as granting any right of judicial review which does not previously exist in law. The decision of the hearing examiner shall be final and exclusive unless a writ of review is sought in the superior court of King County by an aggrieved party or person within 14 calendar days of the effective date of the hearing examiner's decision. The filing of a writ of review with the superior court shall not stay enforcement of the hearing examiner's decision except by order of the superior court and on posting of a bond to be determined by the court naming the city as beneficiary.
- F. Limitations of Authority.** The hearing examiner shall have no authority relative to interpretation of the administrative provisions of city codes or the technical codes nor shall the hearing examiner be empowered to determine the validity or constitutionality of any Auburn ordinances, city codes adopted therein or standards, regulations and procedures adopted pursuant thereto or the terms

and conditions of any permit or approval issued pursuant thereto or to waive requirements of Auburn ordinances, codes adopted therein, or standards, regulations and procedures adopted pursuant thereto or the terms and conditions of any permit or approval issued pursuant to the Auburn City Code, codes adopted therein and standards, regulations and procedures adopted pursuant thereto. (Ord. 4460 § 1, 1991.)

**1.25.110 Collection of monetary penalty.**

A. The monetary penalty constitutes a personal obligation of the person(s) to whom any notice authorized under this chapter is directed. Any monetary penalty assessed as a result of a notice of failure to correct violation must be paid to the finance director within seven calendar days from the date of service of the notice of failure to correct violation and every 30 days thereafter until the violation(s) is corrected or, if a hearing is held, within seven calendar days of the hearing examiner's decision and every 30 days thereafter until the violation(s) is corrected. Any monetary penalty assessed as a result of a violation of a stop work order must be paid within seven calendar days from the date of service of the stop work order, and/or the notice of violation of stop work order, or if a hearing is held, within seven calendar days of the hearing examiner's decision and every seven days thereafter that the violation occurs.

B. The city attorney, on behalf of the city, is authorized to collect the monetary penalty by use of any legal remedies authorized by law or ordinance, including but not limited to turning cases over to a collection agency for action. The city attorney or his/her designee is authorized to collect the costs of enforcement and costs of collection including reasonable attorney fees. Such action shall neither stay nor terminate the accrual of additional daily monetary penalties so long as a violation continues. (Ord. 4460 § 1, 1991.)

**1.25.120 Collection enforcement and/or abatement.**

In the event of failure to comply with any notice and/or stop work order, the city, at its option, may enforce collection through the civil execution process as provided in this chapter or by any method provided by law and/or ordinance and/or may abate the use of the property which is the subject of the violation through the abatement process as provided by law or ordinance. (Ord. 4460 § 1, 1991.)

**1.25.130 Additional enforcement procedure.**

The provisions of this chapter are additional to other enforcement provisions authorized by state statute and city ordinance and are additional to any other remedy available to the city for damages it has suffered. (Ord. 4460 § 1, 1991.)

**1.25.140 Constitutionality or invalidity.**

If any section, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or constitutionality shall not affect the validity or constitutionality of the remaining portions of the sections, subsections, clauses or phrases. It is hereby expressly declared that each section, subsection,

sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 4460 § 1, 1991.)

**1.25.160 Severability.**

If any provision of the codes referenced in this chapter is held invalid or unenforceable, the remainder shall be valid. (Ord. 4460 § 1, 1991.)

## EXHIBIT C

## 10.36.390 Two-hour parking zones.

A two-hour parking limit without meters is established on the following streets, which two-hour parking limit shall exist from 9:00 a.m. to 6:00 p.m. daily, excluding Sundays and holidays.

1st Street Northeast, north side beginning at the east curblane of North Division Street, thence east 120 feet.

1st Street Northeast, south side between Auburn Way North and a point 143 feet east.

1st Street Northwest, north side beginning 36 feet east of the first intersecting alley west of North Division Street thence west to "A" Street Northwest.

1st Street Southeast and Southwest, both sides between "A" Street Southeast and "B" Street Southwest.

2nd Street Northeast, both sides between North Division Street and Auburn Way North.

2nd Street Southeast, north side between "B" Street Southeast and a point 80 feet west.

2nd Street Southeast, north side between Auburn Way South and "D" Street Southeast.

2nd Street Southeast, south side between "A" Street Southeast and "B" Street Southeast.

2nd Street Southeast, north side between "B" Street Southeast and Auburn Way South.

3rd Street Northeast, south side between Auburn Avenue and Auburn Way North.

3rd Street Northeast, north side between Auburn Avenue and point 13 feet west of Auburn Way North.

4th Street Southeast, south side beginning at a point 32 feet east of the east marginal line of Auburn Way South, thence east 70 feet.

6th Street Southeast, both sides, from the west curblane of Auburn Way South to the east curblane of "A" Street Southeast.

"B" Street Northwest, east side between West Main Street and 1st Street Northwest.

"B" Street Southeast, both sides between a point 250 feet south of East Main Street to 2nd Street Southeast.

"D" Street Northeast, both sides between East Main Street and 1st Street Northeast.

"D" Street Southeast, west side beginning at a point 180 feet south of the south curblane of East Main Street.

"E" Street Northeast, west side between East Main Street and 1st Street Northeast.

"H" Street Northeast, east side between 4th Street Northeast and a point 100 feet north.

"I" Street Northeast, both sides beginning at the north curblane of East Main Street and continuing north to its terminus.

Auburn Avenue, east side between a point 120 feet south of 2nd Street Northeast to a point 50 feet south of the south curblane of 3<sup>rd</sup> Street NE.

Exhibit C

Ordinance No. 5246

Auburn Avenue, east side between 3rd and 4th Street Northeast.

Auburn Way North, east side from 1st Street Northeast to 2nd Street Northeast.

East Main Street, both sides between "E" Street Southeast and "M" Street Southeast, except the north side between "E" Street Northeast and "G" Street Northeast.

East Main and West Main Streets, both sides between "B" Street Northwest and Southwest and "E" Street Northeast and Southeast.

North Division Street, west side beginning at a point 110 feet north of 1st Street Northeast to the north curblane of 1st Street Northwest.

South Division Street, west side only between 2nd Street Southwest and 2nd Street Southeast to the east-west alley parallel to and between 2nd Street Northwest and 3rd Street Southwest.

South Division Street, west side beginning at the south curblane of West Main Street continuing south to the north curblane of 1st Street Southwest. (Ord. 4977 § 1, 1997; Ord. 4858 § 1, 1996; Ord. 4603 § 1, 1993; Ord. 4013 §§ 4, 5, 1984; Ord. 3467 §§ 1, 2, 1979; Ord. 3359 § 2, 1979; Ord. 3332 §§ 7, 8, 1979; Ord. 3327 § 2, 1978; Ord. 3205 § 2, 1977; Ord. 3184 § 1, 1977; Ord. 3149 § 3, 1976; Ord. 3139 §§ 1, 2, 1976; Ord. 2998 § 2, 1976; 1957 code § 9.22.200.)

## 10.36.500 Passenger loading zones.

The following are passenger loading zones:

- A. 4th Street Northeast, north side, beginning at a point 30 feet west of the west marginal line of "H" Street, thence west 88 feet.
- B. East Main Street, south side, beginning at a point 30 feet east of the east curbline of "F" Street Southeast thence east 25 feet.
- C. East Main Street north side beginning at the east curbline of "G" Street Southeast east 115 feet.
- D. "M" Street Southeast, west side, beginning at a point five feet south of the south curbline of 23rd Street Southeast extended, thence north 84 feet to the beginning, thence north 65 feet, during the hours of 8:00 a.m. to 4:00 p.m. on regular school days.
- E. Beginning 100 feet north of the north curbline of 4th Street Northeast, thence north 44 feet on the east side of "H" Street Northeast, during the hours from 8:00 a.m. to 5:00 p.m., Monday through Sunday.
- F. "D" Street Northwest, west side beginning 237 feet north of the north curbline of West Main Street and continuing north 120 feet.
- G. "A" Street Northwest, west side, beginning at a point 56 feet north of the north curbline of West Main Street, thence north 43 feet.
- H. 4th Street Northeast, south side, beginning at a point 130 feet west of the west curbline of "H" Street Northeast, thence easterly 85 feet.
- I. 14th Street Northeast, north side, beginning at a point 65 feet west of the west curbline of "K" Street Northeast, thence westerly 145 feet.
- J. 17th Street Southeast, south side, beginning at a point 570 feet east of the east curbline of "C" Street Southeast, thence east a distance of 80 feet.
- K. Auburn Avenue, east side, beginning at a point 20 feet south of the south curbline of 3<sup>rd</sup> Street NE to a point 50 feet south of the south curbline of 3<sup>rd</sup> Street NE.
- LK. Beginning 142 feet south of the southern curbline of East Main Street, thence south 50 feet on the east side of "N" Street Southeast, during the hours from 8:00 a.m. to 5:00 p.m., Monday through Sunday.
- ML. West Main Street, north side, beginning 75 feet west of the westerly curbline of "A" Street Northwest, thence continuing westerly for a distance of 30 feet.
- NM. West Main Street, north side, beginning 42 feet west of the easterly curbline of "F" Street Southwest westerly for 20 feet, to a point 20 feet east of entrance of alley.
- ON. South Division Street, west side, beginning 20 feet south of the south curbline of 3rd Street Southwest and continuing south 130 feet.
- PO. The city engineer shall have the authority to establish passenger loading zones for a period not to exceed 90 days. (Ord. 4821 § 2, 1996; Ord. 4617 § 2, 1993; Ord. 4431 § 2, 1990; Ord. 4096 § 2, 1985; Ord. 4086 § 1, 1985; Ord. 4000 § 1, 1984; Ord. 3984 §§ 2, 4, 1984; Ord. 3849 § 1, 1983; Ord. 3840 § 1, 1983; Ord. 3428 §§ 1, 2, 1979; Ord. 3181 § 1, 1977; Ord. 3168 § 1, 1977; Ord. 3110 § 1, 1976; Ord. 3025 § 1, 1975; 1957 code § 9.22.260(b).)